SUMMARY OF PROPOSED COMMITTEE DRAFT

BILL 23 (2015)

RELATING TO THE TRANSPORTATION SURCHARGE

The proposed CD1:

A. Amends current Ordinance 05-27.

B. Provides for a five-year extension (beyond December 31, 2022 to December 31, 2027) of the surcharge on general excise and use taxes for the City, which is permitted under Section 3 of Act 240 (2015), while complying with the mandate that Ordinance 05-27 (codified as ROH Chapter 6, Article 60) be repealed on December 31, 2022.

C. Provides that beginning July 1, 2015, surcharge monies must be expended on capital costs of a locally preferred alternative for a mass transit project, and related expenses to comply with the Americans with Disabilities Act of 1990.

D. Limits expenditure of surcharge monies to the minimum operable segment of the locally preferred alternative for a mass transit project, and: (1) a maximum amount of $3.67 billion of surcharge monies levied from January 1, 2007 to December 31, 2022, and (2) a maximum amount of $4.58 billion of surcharge monies levied from January 1, 2007 to December 31, 2027.

E. Requires that HART submit an updated financial plan to the Council as a prerequisite for any transfer of GET surcharge monies from the general fund to the transit fund.

F. Provides for quarterly reports on project status and cash balances.

G. Provides for annual reports that detail all amounts invoiced by and paid to general contractors, and separately reflect amounts billed by the general contractor for work done by its subcontractors.

H. Makes miscellaneous technical and non-substantive changes.
A BILL FOR AN ORDINANCE

RELATING TO THE TRANSPORTATION SURCHARGE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Council Findings and Purpose. The purpose of this ordinance is to amend the ordinances pertaining to the county surcharge on general excise and use taxes.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as HRS Section 46-16.8, Ordinance 05-27 established a one-half percent general excise and use tax surcharge to be used to fund the operating and capital costs of the locally preferred alternative for the City's mass transit project and related improvements to comply with the Americans with Disabilities Act (ADA), which was to take effect on January 1, 2007 and be repealed on December 31, 2022.

Among other things, Section 3 of Act 240, Session Laws of Hawaii, Regular Session of 2015, amended HRS Section 46-16.8 to provide for a five year extension of the general excise and use tax surcharge beyond December 31, 2022 to December 31, 2027, for any county that had established a tax surcharge prior to the Act's effective date and that enacts an ordinance to implement the extension; provided that the ordinance is enacted after holding a public hearing that satisfies certain notice requirements and is enacted after July 1, 2015, but prior to July 1, 2016. For the City, which prior to December 31, 2005 had enacted an ordinance to levy the general excise and use tax surcharge for the period between January 1, 2007 and December 31, 2022, Section 9 of Act 240 requires that that ordinance be repealed on December 31, 2022.

This Ordinance is intended to: (1) amend Ordinance 05-27, and (2) effectuate the extension of the general excise and use tax surcharge for Honolulu permitted under Section 3 of Act 240, while complying with the mandate that Ordinance 05-27 be repealed on December 31, 2022.

SECTION 2. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for
purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge [shall] will be levied beginning January 1, 2007. [Prior to the tax surcharge monies being expended as the local match for federal funds, the following shall occur:

(1) The council has approved by ordinance a locally preferred alternative following an Alternatives Analysis; and

(2) The council has received from the director of transportation services an operational, financial, development and route plan for the locally preferred alternative; and

(3) There is a commitment of federal funds, whether for planning, land acquisition or construction, to further the locally preferred alternative.]

Sec. 6-60.2 Use of funds.

(a) All moneys received from the state derived from the imposition of the surcharge established under this article [shall] will be deposited into the general [fund and] fund. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:

(1) [Operating or capital] Capital costs of a locally preferred alternative for a mass transit project; and

(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to [paragraph] subdivision (1).

(b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of $3.67 billion of surcharge moneys levied from January 1, 2007 to December 31, 2022 may be expended on the minimum operable segment.

(c) No moneys received from the surcharge [shall] may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.

(d) Prior to and as a prerequisite for any transfer of moneys received from the surcharge from the general fund to the transit fund, the Honolulu Authority for Rapid Transportation shall submit to the council a currently updated...
A comprehensive financial plan that contains all projected revenues and expenses, including both capital costs and operating and maintenance costs.

(e) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:

1. A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.

2. A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.

(f) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:

1. The names of general contractors and their respective subcontractors;

2. The type of services provided by each general contractor and subcontractor;

3. A detailed description and justification for the work done by each general contractor and subcontractor; and

4. The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, Section 6-60.1 [shall] will be repealed on December 31, 2022."

SECTION 3. Chapter 6, Article 60, Revised Ordinances of Honolulu 1990, is repealed.

["Article 60. Transportation Surcharge—Use of Funds

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Sec. 6-60.1 Establishment of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as Section 46-16.8 of the Hawaii Revised Statutes, there is hereby established a one-half percent general excise and use tax surcharge to be used for purposes of funding the operating and capital costs of public transportation within the City and County of Honolulu as specified herein. The excise and use tax surcharge will be levied beginning January 1, 2007.

Sec. 6-60.2 Use of funds.

(a) All moneys received from the state derived from the imposition of the surcharge established under this article will be deposited into the general fund. Beginning July 1, 2015, moneys received from the surcharge may be expended for the following purposes authorized by state law:

(1) Capital costs of a locally preferred alternative for a mass transit project; and

(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).

(b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of $3.67 billion of surcharge moneys levied from January 1, 2007 to December 31, 2022 may be expended on the minimum operable segment.

(c) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.

(d) Prior to and as a prerequisite for any transfer of moneys received from the surcharge from the general fund to the transit fund, the Honolulu Authority for Rapid Transportation shall submit to the council a currently updated comprehensive financial plan that contains all projected revenues and expenses, including both capital costs and operating and maintenance costs.

(e) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:
A BILL FOR AN ORDINANCE

(1) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.

(2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.

(f) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:

(1) The names of general contractors and their respective subcontractors;

(2) The type of services provided by each general contractor and subcontractor;

(3) A detailed description and justification for the work done by each general contractor and subcontractor; and

(4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 247, Session Laws of Hawaii, Regular Session of 2005, Section 6-60.1 will be repealed on December 31, 2022."

SECTION 4. Chapter 6, Revised Ordinances of Honolulu 1990 ("Revolving Special Funds, Housing Mortgage Loans and Fees"), is amended by adding a new Article 60, to read as follows:

"Article 60. Transportation Surcharge—Use of Funds

Sec. 6-60.1 Extension of surcharge—Conditions.

Pursuant to Section 2 of Act 247, Session Laws of Hawaii, Regular Session of 2005, codified as HRS Section 46-16.8, as amended by Section 3 of Act 240, Session
Laws of Hawaii, Regular Session of 2015, the one-half percent general excise and use tax surcharge established by Ordinance 05-27 is extended for the period beginning January 1, 2023 and ending December 31, 2027, and is to be used to fund the capital costs of public transportation within the city as specified in this article.

Sec. 6-60.2 Use of funds.

(a) All moneys received from the state derived from the imposition of the surcharge established under this article will be deposited into the general fund and expended for the following purposes authorized by state law:

(1) Capital costs of a locally preferred alternative for a mass transit project; and

(2) Expenses in complying with the Americans with Disabilities Act of 1990 with respect to subdivision (1).

(b) No surcharge moneys may be expended on portions of the locally preferred alternative for mass transit project beyond the minimum operable segment established under resolution 08-261, and a maximum amount of $4.58 billion of surcharge moneys levied from January 1, 2007 to December 31, 2027 may be expended on the minimum operable segment.

(c) No moneys received from the surcharge may be used to build or repair public roads or highways or bicycle paths, or to support public transportation systems already in existence prior to July 12, 2005.

(d) Prior to and as a prerequisite for any transfer of moneys received from the surcharge from the general fund to the transit fund, the Honolulu Authority for Rapid Transportation shall submit to the council a currently updated comprehensive financial plan that contains all projected revenues and expenses, including both capital costs and operating and maintenance costs.

(e) At the close of each quarter, the Honolulu Authority for Rapid Transportation shall submit to the council:

(1) A capital improvement program status report in substantially the same form as that submitted by the director of budget and fiscal services for the city's executive capital improvement program.
(2) A statement of cash balances for each revenue source and each category of project cost showing the cash balance at the start of the accounting period and the cash balance at the end of the period.

(f) Within 30 days following the end of each fiscal year, the Honolulu Authority for Rapid Transportation shall submit to the council a report detailing all amounts invoiced by and paid to general contractors for the fiscal year just ended. The report must be organized by general contractor, separately reflect amounts billed by the general contractor for work done by its subcontractors, and include the following information:

(1) The names of general contractors and their respective subcontractors;

(2) The type of services provided by each general contractor and subcontractor;

(3) A detailed description and justification for the work done by each general contractor and subcontractor; and

(4) The amount invoiced by and paid to each general contractor, and the amount invoiced by each subcontractor to the general contractor for the described work.

(g) For purposes of this article, "capital costs" means the same as defined in HRS Section 46-16.8, as it may be amended, for a county with a population greater than five hundred thousand.

Sec. 6-60.3 Repeal of surcharge.

Pursuant to Section 9 of Act 240, Session Laws of Hawaii, Regular Session of 2015, Section 6-60.1 will be repealed on December 31, 2027."
SECTION 5. The repeal in SECTION 3 of this Ordinance takes effect on December 31, 2022. The enactment in SECTION 4 of this Ordinance takes effect on January 1, 2023. The other Sections of this Ordinance take effect upon approval.

INTRODUCED BY:
Ernest Martin

DATE OF INTRODUCTION:
March 12, 2015
Honolulu, Hawaii

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this ______ day of ______________, 20 ______

KIRK CALDWELL, Mayor
City and County of Honolulu